



PATERNITY



What is a paternity suit?

A suit filed to have a man declared the father of a child is called a paternity suit. When the father of an illegitimate child has not acknowledged the child, paternity must be established in court or administratively. The father of any illegitimate child may be required to provide child support through paternity proceedings. The degree and the kind of proof required depend on the purpose for which finding a paternity would be used and the State law involved.

What happens in a paternity suit?

The paternity proceedings determine whether the person named in the suit fathered the child. Any biological father of a child born to unmarried parents for whom paternity has been established by either the admission of the father or the agreement of the parents is an acknowledged father. An acknowledged father must pay child support.

How is paternity established?

There are two types of suits available for establishing paternity: (1) attorney general initiated paternity suits and (2) private paternity suits.

Attorney General initiated paternity suits: the mother of a child can contact the Child Support Unit of the State Attorney General's Office to initiate a paternity suit. The steps involved for a female when filing a suit with the Attorney General's Office generally include:

- a) **Application process:** Call or visit the Attorney General's Office of the state where you live for an application. The female must provide the father's name, social security number, and home address. Upon receipt of the application, the Attorney General's Office will author the petition to establish a parent-child relationship and file it with the Court on behalf of the mother
- b) **Father's responses:** The father has 3 choices.
 - i. **Admit:** to do so, the alleged father signs a document called an Acknowledgement of Paternity (sometimes called an Affidavit of Paternity). If the alleged father admits to paternity, the statement is filed with the court. The petition to establish a parent-child relationship will be granted and support obligations will be established.
 - ii. **Deny:** when paternity is denied, the Attorney General's Office will get a court order to set up a DNA test. The Attorney General will mail a DNA test notice to the alleged father stating an appointment date, time, and place. The alleged father may have to pay for the DNA test if the results are positive.
 - iii. **Default:** if the alleged father has proper service of the petition (i.e., the sheriff or private agency personally gives the alleged father the paper, or it is mailed by certified mail and the father signs for the papers), then the alleged father has proper notice of the suit. If he does not admit or deny the paternity, the court will grant a default to the petition, which usually includes establishing a parent-child relationship and establishing support obligations.
- c) **Father initiated suits** are handled differently. The father follows the application process. However, if the female refuses to cooperate with the suit, the Attorney General has no power to pursue the suit. At this point, the male client is advised to hire a private attorney to continue with the suit.

Private Paternity Suits (Non-Attorney General Involvement)

- a) **Statement of paternity:** a statement of paternity, which includes a signed Acknowledgement/ Affidavit of Paternity, is used to establish paternity.
- b) **General denial:** when an alleged father is named in a paternity suit, he must answer the complaint. Otherwise, if there is proper service, the court can grant a default judgment. If the alleged father does not believe he is the child's father, he can file a general denial. When the alleged father files a general denial, there is a request that blood be drawn and a DNA test be

used to determine paternity. The answer requests that if the test results are negative, the cost of the test should be paid by the mother who initiated the paternity suit.

- c) Father's initiation for declaration of paternity: a father can bring an action to establish paternity. This is brought to court by the father who is not the subject of a paternity suit. Rather, the father wants a court order establishing him as the father of the child. The legal assistance office can assist you in a pro se action to establish paternity. This document can be used to obligate the father to pay child support. If the father wants to establish custody or visitation rights, he must seek a civilian attorney.

Can I claim an "illegitimate" child as a dependent?

The illegitimate child of a serviceman does not automatically become an eligible dependent for the purpose of military benefits. A serviceman's illegitimate child will be considered a military dependent, under Army Regulation 600-8-14, if the natural parents later enter into a valid marriage; there is a court order establishing the serviceman as the father; or the father; or the child resides in a household maintained by the serviceman for support. An illegitimate child born to a female service member is entitled to an ID card and other benefits.

How do I establish paternity if both the mother and I agree that I am the father?

You should start by signing an Affidavit/Acknowledgement of Paternity. This is a document that is either on file at the courthouse of the county where the mother and child are. This document can also be created by an attorney. This has to be signed in front of a Notary Public. The mother signs a similar document agreeing that you are the father, and petitions the court to enter an order declaring you the father. If you wish to do this, you should set up an appointment with a Legal Assistance Attorney.

What are the effects of paternity on Army benefits?

- Eligibility requirements for DEERS benefits
- Eligibility requirements for BAQ benefits for a male soldier with an illegitimate child.
- Support obligation under AR 608-99.

<p>Yongsan Client Legal Services Division, Office of the Staff Judge Advocate, Eighth US Army Bldg 4106, room 229 (ACS building). Please call 738-8111 for an appointment. Office hours: M, Tu, W, F 0900-1630 and Th 1300-1530.</p>
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